IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 596 of 2004

and

WRIT APPEAL NO : 585 of 2004

W.A.No. 596 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 15-12-2003 in W.P.NO. 12756 of 1993 on the file of the High Court.)

Between:

1 The Life Insurance Corporation of India
Central Office, Bombay
2 The Zonal Manager, Life Insurance Corporation of India
South Central Zonal Office, Hyderabad
3 The Sr. Divisional Manager, Life Insurance Corporation of India,
College Road, Cuddapah
4 The Branch Manager, Life Insurance Corporation of India
Hindupur , Ananthapur Dist

..... APPELLANTS

AND

B. Kumara Balasundaram S/o Prasada Rao
Branch Office at Hindupur, Ananthapur Dist

.....RESPONDENT

W.A.NO. 585 OF 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 18/11/2003 in WP NO : 5239 OF 1992 on the file of the High Court.)

Between:

1 The Senior Divisional Manager, Life Insurance Corporation of India, Cuddapah Divisional Office, Cuddapah.
2 The Zonal Manager, Life Insurance Corporation of India, Zonal Office, Hyderabad.

..... APPELLANTS

AND

G. Chandrasekhar Reddy S/o. Eswar Reddy,
at Jammalamadugu, R/o. Jammalamadugu, Cuddapah District.

.....RESPONDENT

In both appeals:

Counsel for the Appellants: MR.P.NAGESWAR SREE

Counsel for the Respondent : MR.V.JAGAPATHI

The Court made the following :

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

COMMON JUDGMENT (per Hon'ble Smt Justice T. Meena Kumari):

These two writ appeals arise out of the orders dt. 18.11.2003 & 15.12.2003 passed in W.P. No. 5239 of 1992 and WP No. 12756 of 1993. The respondent in W.A.No. 585 of 2004, who was the petitioner in WP No. 5239 of 1992, filed the said writ petition seeking a writ of mandamus directing the appellants herein to extend all the benefits including seniority, annual increments etc., on par with the candidates appointed as Assistants pursuant to the employment notice dt. 1-6-89 to him by treating the petitioner as if he was also appointed as Assistant under Ex-Servicemen quota of 14½% as per the employment notice dated 1.6.1989 with all other consequential benefits. The learned single judge, after considering the entire material available on record, allowed the writ petition No. 5239 of 1992 by directing the appellants herein to fix the seniority of the respondents herein in the cadre of Assistant under ex-servicemen quota along with other ex-servicemen, who were also appointed in pursuance of the notification dated 1-6-1989 on notional basis. Basing on the said orders passed in WP No. 5239 of 1992, the other writ petition No. 12756 of 1993 filed by B. Kumara Balasundaram (respondent in W.A.No. 596 of 2004 herein) was also disposed of. The same has been assailed by the appellant Corporation in the present writ appeal.

2. It is argued by the learned counsel for the respondents before this Court that in pursuance of the Notification dated 1-6-1989 issued by the Kadapa Division of LIC, the respondents in the above appeals applied for the post of Assistant in the appellants Corporation at Kadapa under 14 ½ percent quota reserved for the Ex-service men. Since their case was not considered, they filed the writ petitions. Subsequently the respondents appeared for the written test on 10-9-89 and were

qualified and then they also attended the oral interview held on 7-11-1989. Despite the respondents being qualified in the written test and attended the interview, their case was not considered for the appointment as Assistants under Ex-servicemen quota and hence they chose to file W.P.No.2134 of 1990 & 1355 of 1990. It is further submitted that though the learned single judge initially granted interim directions not to fill up the vacancy reservation for Ex-Servicemen, finally through the judgment dated 27-2-1991 disposed of the said writ petitions directing the LIC to allot 23 posts of Assistants to ex-servicemen category. The learned single Judge also directed to appoint the respondents therein if they are within 23 rank. Aggrieved by the said order, though the appeals W.A. Nos. 501/92 & 502/92 were preferred by the Corporation, later they were dismissed as withdrawn. Accordingly, the said findings in the writ petitions have become final and in pursuance of the said order the appointments were issued to the petitioners therein. Meanwhile, a fresh notification was issued by the appellant Corporation in June 1991. Pursuant to the said Notification in June 1991, one G. Chandrasekhara Reddy (respondent in WA No.585/2004) was appointed as Assistant on 16-9-1991 and the respondent in writ Appeal No.596 of 2004 B.K Balasundaram has been appointed by the letter of the corporation dated 4-12-1991 and subsequently, his services were confirmed w.e.f. 2-7-1992.

3. Since the respondents in these appeals were not given the seniority on par with the other candidates who were appointed earlier to them in pursuance of the notification dated 1-6-1989, they filed writ petitions Nos. WP No. 5239 of 1992 & W.P. No.12756 of 1993 claiming seniority and other benefits along with the ex-servicemen appointed in pursuance of the notification dt. 1-6-1989. The other writ petition No.12756/93 filed by B.K. Bala Sundaram has also been disposed of in pursuance of the said order in WP No. 5239 of 1992 and that the above orders have been assailed in the present appeal.

4. Per contra, learned counsel appearing for the appellants herein would contend that in view of the fact that these respondents joined later to the incumbents in pursuance to the notification dt. 1.6.1989, they are not entitled to the relief sought for and that the seniority has to be reckoned from the dates of their respective joining and not from the date of their appointments. Learned counsel would also further contend that since G. Chandra Sekhar Reddy was appointed as Assistant in pursuance of the notification dt.16-9-1991, he cannot claim any seniority with the

other candidates appointed pursuant to the notification dt. 1-6-1989.

5. But, however, it has to be observed that earlier the writ petitions filed by the respondents herein W.P.No. 2134/90 & W.P. No.13559/90 have become final wherein the learned single judge directed the appellant Corporation to allot 23 posts of Assistants to ex-servicemen category etc., and to appoint the respondents therein if they are within 23rd rank. There is no other material placed before this court to show that these respondents are not entitled to claim the seniority on par with the incumbents appointed in pursuance of the notification dt. 1-6-1989.

6. It is also the contention of learned counsel appearing for the respondents that if the appellant Corporation filled-up the posts under ex-servicemen quota even before the directions of the Court, these respondents could have got appointments in the year 1989 itself and it is only because of non-filling up of the posts by the Corporation these respondents had approached the Court and got the directions in their favour, for which they cannot be find fault. In view of the fact that even though one of the respondents G. Chandra Sekhar Reddy was appointed pursuant to the second notification dt. 16-9-1991, it has to be observed that because of non-filling up of the posts for the balance quota of the ex-servicemen and these posts were filled up in pursuance of the directions issued by the learned single judge of this Court, the respondents cannot be find fault for not getting the seniority on par with the other incumbents.

7. Under the above circumstances, we confirm the orders of the learned single judge with a direction that the respondents herein shall take the last rank of the notional seniority on par with the candidates who have been appointed in pursuance of the notification dated 1-6-1989. This order shall not be the precedent for future cases.
The entire exercise shall be done within a period of two months from the date of receipt of a copy of this order.

(Justice T. Meena Kumari)

19-1-2005

(Justice S. Ananda Reddy)

Kvrk

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 596 & 585 of 2004

(order of the Division Bench made by

the Hon'ble Smt Justice T.Meena Kumari)

-

-

19th JANUARY 2005